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SUBJECT: CHINA TIP INTERIM ASSESSMENT 2009

REF: STATE 111886

#### Summary

¶1. (U) China has made progress since April 2008 in combating human trafficking. The implementation of the National Plan of Action (NPA) on Combating Trafficking in Women and Children (2008-2012), led by the Ministry of Public Security (MPS) in coordination with 28 other agencies, underscores China's efforts to move from "combating trafficking" status to "anti-trafficking," thereby broadening its focus from prosecution and rescue to include prevention, protection, rehabilitation and reintegration of trafficking victims into society.

¶2. (U) The NPA aims to provide "sustainable and long-term solutions to human trafficking." China has publicly expressed its intention to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, but ratification of the protocol will require a comprehensive review of China's laws and regulations relating to human trafficking, notably those pertaining to the definition of minors, the definition of trafficking and the scope of what constitutes a trafficking crime. That review is not yet complete.

¶3. (U) China has not officially adopted standardized guidelines for identification of trafficking victims, nor does it offer comprehensive victim protection services, although guidelines and programs are being developed to address these deficiencies. China continues to consider all North Koreans "economic migrants" rather than refugees and has limited UNHCR personnel's access to North Korean refugees in China, leaving that population especially vulnerable to trafficking. End Summary.

#### Funding for NPA implementation

¶4. (U) China's National Plan of Action (NPA) stipulates that a "strategic measure" to be implemented in carrying out the NPA is to "employ multiple fundraising channels using contributions from the government, supplemented by donations from society and other sources." Relevant government departments at the national and local levels are required to set aside earmarked funding for anti-trafficking efforts. At the same time, each department at all levels is encouraged to "procure contributions from civil groups, public welfare organizations, private enterprises and institutions as well as individuals." The NPA also welcomes international aid, as well as technical expertise, to assist China in meeting its objectives.

¶5. (U) According to the MPS Office to Combat Human Trafficking, the Ministry of Public Security is in the process of negotiating with the Ministry of Finance to

allocate a larger tranche of the national budget to anti-trafficking measures, especially in less developed regions.

#### Efforts to Address Labor Trafficking

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¶16. (U) Chinese law prohibits forced and compulsory labor, including by children, but such practices continue to occur. Chinese authorities have had modest success in protecting victims of forced labor and there have been several recent high-profile cases in which forced laborers have been "rescued" from their employers by authorities in sting operations.

¶17. (U) China's Labor Contract Law, which went into effect in January, provides workers and rights defenders new legal tools to hold employers accountable for illegal labor practices, such as preventing workers from exercising their right to leave their jobs. In addition, the State Council and 14 ministries, including the Ministry of Public Security and the Ministry of Human Resources and Social Security, are discussing a revision of China's household registration policy with the aim of increasing legal protection for migrant workers. Migrant workers, estimated by the International Labor Organization (ILO) to number more than 100 million persons, are those most vulnerable to trafficking.

¶18. (U) Chinese law prohibits the employment of children under the age of 16, but the government has not adopted a comprehensive policy to combat child labor and claims that the majority of children who work do so to supplement family

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income. The labor law specifies administrative review, fines and revocation of business licenses of those businesses found to have illegally hired minors. Reliable statistics on the prevalence of child labor are not available, but the government acknowledges there is a problem and although it says it is not widespread, admits that it is relatively prevalent in certain industries, including manufacturing.

¶19. (U) In July 2008, the Ministry of Human Resources and Social Security established a bureau for labor protection which is charged with investigating allegations of illegal employment practices and reporting cases of labor trafficking to the Ministry of Public Security. The Ministry also provides free vocational training and guidance to female victims of trafficking under 16 who do not want to return to their original residences.

#### Meeting International Legal Standards

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¶10. (U) China has publicly announced its plans to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons and expects ratification to occur in 2009 during the annual spring session of the National People's Congress (NPC), the country's highest legislative body. The Ministry of Public Security says that "China has put efforts to ratify the protocol at the top of its agenda," while the NPA mandates the "signing and implementation of relevant international treaties."

¶11. (U) Ratification of the protocol would require a comprehensive review of China's laws and regulations relating to human trafficking, notably those pertaining to the definition of minors, the definition of trafficking and the scope of what constitutes a trafficking crime. At present, China's definition of trafficking does not include forced labor nor trafficking of men and boys while a minor is defined as a person under 14 years of age.

¶12. (U) Members of the NPC and the Supreme People's Court (SPC) have indicated that China's criminal law can be revised in order to accommodate differences between China's legal

framework and international law. In addition to Articles 240, 241 and 262 of China's Criminal Code, which directly address trafficking, the following articles refer to the criminalization of various trafficking-related crimes: Articles 134, 135, 244, 262 and 333 address forced labor; Articles 358, 359, 360, 361 and 365 address sexual exploitation; Articles 234 and 238 address violation of a victim's rights while being trafficked; Article 242, 362, 416 and 417 address obstructing rescue operations of trafficking victims; Article 318, 319, 320, 321, 322 and 415 address transnational trafficking crimes and Articles 23, 26, 27, 28, 30, 31 and 64 address complicity in trafficking crimes.

¶13. (U) The Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) Joint Declaration, signed by China and five Southeast Asian countries in December 2007, further binds China to a revision of its laws and regulations, stipulating that each member declare a "firm commitment to the fight against slavery in all its forms including sexual exploitation of both children and adults, forced labor, child labor and forced marriage, contained in the Universal Declaration of Human Rights and other international instruments."

#### Victim Identification Procedures

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¶14. (U) China has not officially adopted standardized guidelines for identification of trafficking victims, although guidelines have been developed and are currently being considered for approval. The Ministry of Civil Affairs is working with the International Organization for Migration (IOM) on a training module on identification, protection, recovery and reintegration of trafficking victims and is planning to implement a pilot project at several of its relief shelters to develop a model program for such services.

#### Protection and Rehabilitation of Victims

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¶15. (U) China continues to lack comprehensive victim protection services, although it is making efforts to address this deficiency. The NPA calls for strengthening relief and rehabilitation of victims by increasing the number of women and children who receive training, aid and medical treatment, as well as through establishing institutions for relief,

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transfer and rehabilitation. The NPA further mandates that rescued women and children should be successfully reintegrated into society and agencies should "strengthen registration, management and protection" by establishing "specialized archives" to track victims' rehabilitation progress.

¶16. (U) The Ministry of Civil affairs is working to develop a program model for victim identification, protection, recovery and reintegration, and plans to double its child relief centers, which often serve as shelters for trafficking victims, to 300 by 2010. The Ministry of Public Security, with the help of UN agencies, continues to operate "transfer centers" along the border with Vietnam and Burma which reportedly provide assistance and rehabilitation services for victims. Legal aid services for women continue to be provided in key areas across the country.

#### Investigating Government Officials

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¶17. (U) In February 2008, the Central Committee on the Comprehensive Management of Public Security (CCCMPs), China's top public security watch-dog, added anti-trafficking measures to its list of national priorities for maintaining public security. As a result, police facilities around the country, including community and civilian police installations, were reportedly expanded and improved to

provide a "safer community environment for the general public." The new priorities also mean that government officials' performance is evaluated against regulations that prohibit complicity in trafficking crimes.

#### Increasing Public Awareness

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¶18. (U) China is making strides to increase public awareness of the trafficking issue. The NPA stipulates that the government "increase the dissemination of anti-trafficking information, training and education" in key areas and with at-risk populations, as well as with the general public and law enforcement officials. Hotlines for victims of trafficking and trafficking-related crimes are set up across the country in various provinces, cities and counties, and are maintained by the government agencies, associations or youth organizations.

¶19. (U) Targeted public awareness campaigns continue in various regions, building on the success of the All China Women's Federation (ACWF) "Spring Rain" campaign held in February 2007 in which information on trafficking prevention and safe employment was disseminated to young female migrant workers during the spring migration season across five provinces. Such campaigns usually aim to reach young, female audiences, considered the most vulnerable to trafficking in China.

#### Legal Alternatives to Repatriation

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¶20. (U) Although China provides temporary shelter to foreign victims of trafficking, there are no legal alternatives to repatriation. Most foreign victims are therefore returned to their country of origin upon identification. China continues to work together with COMMIT members, especially Vietnam and Burma, on anti-trafficking programs, and uses its Border Liaison Offices (BLOs) in Yunnan and Guangxi Provinces to facilitate repatriation of victims.

#### Adhering to Refugee Conventions

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¶21. (U) China continues to consider all North Koreans "economic migrants" rather than refugees and has limited the UN High Commissioner for Refugees' (UNHCR) access to North Korean refugees in China. The lack of access to UNHCR-supported durable solution options and constant fear of forced repatriation by Chinese authorities leave North Korean refugees vulnerable to human traffickers.

#### Other Significant Developments

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¶22. (U) As a follow-up to several preparatory meetings on implementing the NPA held in June and September, the first Inter-Ministerial Joint Conference System (IMCS), a ministerial-level joint meeting headed by Ministry of Public Security and comprising 28 agencies, will be held in

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November. Rules and regulations, as well as ministerial responsibilities for implementing the NPA, are expected to be approved at this meeting and problems and difficulties encountered since January 2008 will be reviewed. Provincial responsibilities under the NPA will also be discussed, as well as the first provincial action plans developed in Fujian, Guizhou and Hunan.

¶23. (U) MPS is currently undertaking research on the trafficking problem in China, its root causes, scope, etc. and is prioritizing data collection and reporting systems to "improve the mechanism for information collection and exchange on combating crime." Eventually, MPS aims to standardize policies related to trafficking nation-wide.

